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Subpart 528.1 - Bonds and Other Financial Protections

528.101 Bid guarantees.

528.101-1 Policy on use.

(a) *Construction contracts.* The bid guarantee requirements in FAR 28.101-1(a) apply to contracts over \$150,000 awarded under Section 8(a) of the Small Business Act, as amended ([15 U.S.C. 637\(a\)](#)).

(b) *Building service contracts.* The contracting officer may require bid guarantees for building service contracts over \$150,000 if it is determined under [528.103-2](#) that a performance bond is essential to protect the Government's interest.

(c) *All other contracts.* Refer to FAR 28.101 for guidance on the use of bid guarantees.

528.102 Performance and payment bonds and alternative payment protections for construction contracts.

528.102-1 General.

(a) The performance and payment bond requirements in FAR 28.102-1 apply to contracts over \$150,000 awarded under Section 8(a) of the Small Business Act, as amended ([15 U.S.C. 637\(a\)](#)).

(b) The payment protection requirements in FAR 28.102-1(b) apply to contracts greater than \$35,000, but not greater than the \$150,000, awarded under Section 8(a) of the Small Business Act, as amended ([15 U.S.C. 637\(a\)](#)).

528.103 Performance and payment bonds for other than construction contracts.

528.103-2 Performance bonds.

(a) The contracting officer shall not require performance bonds for building service contracts unless a written determination is made explaining why the bond is essential to protect the Government's interest and justifying the additional cost of the bonding requirement.

(b) The contracting officer may require a performance bond for building service contracts over \$150,000 awarded under Section 8(a) of the Small Business Act as amended ([15 U.S.C. 637\(a\)](#)) if it is determined under [528.103-2\(a\)](#) that a performance bond is essential to protect the Government's interest.

(c) The contracting officer shall not require a performance bond for building service contracts awarded to workshops for the blind or other severely handicapped under the Javits-Wagner-O'Day Act, as amended ([41 U.S.C. 8501-8506](#)).

(d) Consider the circumstances and determine the penal amount of the performance bond on a case-by-case basis.

528.103-3 Payment bonds.

(a) The contracting officer may require payment bonds for other than construction contracts if the contracting director determines, under FAR 28.103-3, that such a requirement is in the Government's interest.

(b) Consider the circumstances and determine the penal amount of the payment bond on a case-by-case basis.

528.106 Administration.

528.106-6 Furnishing information.

The HCA or designee performs the functions outlined in FAR 28.106-6(c).

Subpart 528.2 - Sureties and Other Security for Bonds

528.202 Acceptability of corporate sureties.

Corporate surety bonds must be manually signed by the Attorney-in-Fact or officer of the surety company and the corporate seal affixed. The contracting officer may waive failure of the surety to affix the corporate seal as a minor informality. (See B-184120, July 2, 1975, 75-2 CPD 9.)

528.202-70 Acceptability of bonds and sureties.

Verify the acceptability of the surety on a bond by placing the words "Acceptability of Bond Verified," and sign immediately thereunder, on the bond or on a properly identified attachment. Retain the bond with the original of the contract. The contracting officer may use the Notice to Proceed to notify the contractor that the bond(s) has been accepted.

528.203 Acceptability of individual sureties.

Refer evidence of possible criminal or fraudulent activities by an individual surety first to the Assistant Inspector General for Investigations or to the appropriate Regional Special Agent in Charge. The Office of Inspector General may conduct an investigation and, when appropriate, refer the matter to the Senior Procurement Executive. Include in referrals the information required by [528.203-7](#).

528.203-7 Exclusion of individual sureties.

(a) The Senior Procurement Executive or designee excludes individuals from acting as a surety on bonds under FAR 28.203-7.

(b) Include the following, as a minimum, in referrals for consideration of exclusion:

- (1) The basis for exclusion (see FAR 28.203-7(b)).
- (2) A statement of facts.
- (3) Copies of supporting documentary evidence.
- (4) The individuals' names and current or last known home and or business addresses, including zip codes.
- (5) A statement of GSA's history with such individuals, if any.

(6) A statement concerning any known active or potential criminal investigations or court proceedings.

(c) In accordance with GSA Order ADM 5000.4A Legal Services, legal review shall be obtained for the proposed exclusion.

528.204 Alternatives in lieu of corporate or individual sureties.

Security deposited instead of corporate or individual sureties on bonds must be safeguarded immediately after they are received, as provided in procedures issued by the Office of the Chief Financial Officer (see GSA Order, Accounts Receivable Policy Handbook (CFO P 4253.1)). United States bonds or notes received in the District of Columbia must be deposited with the Treasurer of the United States, as provided in FAR 28.204-1.

Subpart 528.3 - Insurance

528.301 Policy.

Insurance requirements must be adequate, just, and reasonable. They should be predicated on potential loss or damage, not necessarily on the value of the contract.

528.310 Contract clause for work on a Government installation.

Insert the clause at [552.228-5](#), Government as Additional Insured, in each solicitation and contract that meets all the following conditions:

- (a) The contract amount is expected to exceed the simplified acquisition threshold; and
- (b) The contract will require work to be performed on Government property.

528.311 Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.

528.311-1 Contract clause.

Use the clause at FAR 52.228-7, Insurance-Liability to Third Persons, in solicitations and contracts, other than those for construction and those for architect-engineer services, when a cost-reimbursement contract is contemplated, unless the head of the contracting activity waives the requirement for use of the clause.